

Ordinance No: 15-13
Zoning Text Amendment No: 03-13
Concerning: Registered noncomplying dwellings
Draft No. & Date: 1 – 6/3/03
Introduced: June 10, 2003
Public Hearing: July 15, 2003; 1:30 PM
Adopted: July 29, 2003
Effective: August 18, 2003

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

By: Councilmembers Perez and Floreen

AN AMENDMENT to the Montgomery County Zoning Ordinance for the purpose of:

- allowing [[under certain circumstance a registered noncomplying multi-family dwelling changed to a less intensive use to revert to the number of dwelling units that existed when the noncomplying multi-family dwelling was registered]] the owner of a noncomplying multi-family dwelling that was originally constructed as a multi-family dwelling to temporarily reduce the number of units, provided that the reason for the temporary reduction is to provide a larger unit for the property owner's own use.

By amending the following section of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 59-G-4 “NONCONFORMING USES, BUILDINGS, AND
STRUCTURES”

Section 59-G-4.34 “Continuation of noncomplying multi-family dwellings existing
before January 1, 1954”

EXPLANATION: ***Boldface** indicates a heading or a defined term.*

*Underlining indicates text that is added to existing laws
by the original text amendment.*

*[Single boldface brackets] indicate text that is deleted from
existing law by the original text amendment.*

*Double underlining indicates text that is added to the text
amendment by amendment.*

*[[Double boldface brackets]] indicate text that is deleted
from the text amendment by amendment.*

** * * indicates existing law unaffected by the text amendment.*

OPINION

Zoning Text Amendment No. 03-13 was introduced on June 10, 2003 to allow a noncomplying multi-family dwelling to be restored to the number of dwelling units that existed in the building when the building was registered. The ZTA is general legislation that will have immediate application to a registered noncomplying building in Takoma Park.

The Montgomery County Planning Board recommended that ZTA 3-13 not be approved. The Board believes that the current policy that restricts a noncomplying use once changed to a less intensive use from reverting to a more intensive use should not be revised to accommodate the applicant.

The County Council held a public hearing on July 15, 2003 to receive testimony concerning the proposed text amendment. The text amendment was referred to the Planning, Housing, and Economic Development Committee for review and recommendation.

The Planning, Housing, and Economic Development Committee held a worksession on July 23, 2003 to review ZTA 03-13. It was the position of the Committee that ZTA 03-13 is the narrowest of exemptions to the general policy restricting a noncomplying dwelling from reverting to its original density. Only those structures that were originally built as multi-family buildings located in single-family zone are still in existence. The single-family conversions were required to phase out no later than 1989, or reduce the number of units to the number allowed in the zone. In staff's view some limited relaxation of the non-reversion policy is appropriate under the circumstances. The Committee recommends that ZTA 03-13 be approved with revisions recommended by Council staff.

The District Council reviewed Zoning Text Amendment No. 03-13 at a worksession held on July 29, 2003 and agreed with the recommendations of the Planning, Housing, and Economic Development Committee.

For these reasons and because to approve this amendment will assist in the coordinated, comprehensive, adjusted and systematic development of the Maryland-Washington Regional District located in Montgomery County, Zoning Text Amendment No. 03-13 will be approved as revised.

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

1 **Sec. 1. Division 59-G-4 is amended as follows:**

2 **DIVISION 59-G-4. NONCONFORMING USES, BUILDINGS, AND**
3 **STRUCTURES.**

4 * * *

5 **59-G-4.34 Continuation of noncomplying multi-family dwellings**
6 **existing before January 1, 1954.**

7 Any building or structure located in a single family residential zone which has
8 been converted and used continuously as a multi-family dwelling from before
9 January 1, 1954, to March 23, 1978, may continue the use for a period not to
10 exceed 10 years even though the buildings, structures or uses do not comply with
11 the regulations applicable to the zone in which the building, structure or use is
12 located, subject to this section. Buildings or structures located in a single family
13 residential zone which were originally constructed as multi-family dwellings are
14 exempt from the 10-year phase-out if they meet all other requirements of this
15 section.

16 * * *

- 17 (f) No registered noncomplying multi-family dwelling is allowed to be
18 extended, expanded or increased in intensity of use in any way.
- 19 (g) No registered noncomplying multi-family dwelling which has been changed
20 in whole or in part to a less intensive use is allowed to revert to a more
21 intensive use~~[[.]], except that the owner of noncomplying multi-family~~
22 dwelling that was originally constructed as a multi-family dwelling may
23 temporarily reduce the number of units, provided that the reason for the
24 temporary reduction is to provide a larger unit for the property owner's own
25 use. [[However, if not more than two dwelling units in a registered
26 noncomplying multi-family building were combined into one dwelling unit
27 before (ZTA Effective Date), the one dwelling unit may revert to two

dwelling units, as existed when the noncomplying multi-family building was
registered.]] No noncomplying use, once abandoned, is allowed to be

reestablished. For the purpose of this section, “abandoned” is defined as the
cessation of use as a multi-family dwelling for a period of 6 months or more.

(h) In the event of destruction or serious damage by fire, flood or similar cause,
no registered noncomplying multi-family dwelling is allowed to be
reconstructed for the purpose of carrying on the noncomplying use.

“Serious damage” shall be defined as damage which reduces the market
value of any structure by more than one-half.

* * *

Sec. 2. Effective date. This ordinance becomes effective 20 days after the
date of Council adoption.

This is a correct copy of Council action.

Mary A. Edgar, CMC

Clerk of the Council